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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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March 1, 1999

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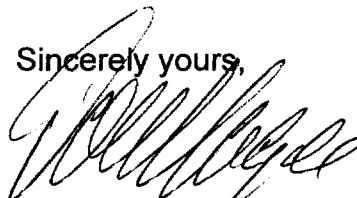
RE: Broadcast and Cable Equal Employment Opportunity Rules
MM Docket No. 98-204, et al.

Dear Ms. Salas:

Attached please find an original and nine copies of the "Comments of the National Hispanic Foundation for the Arts," to be filed in the above-referenced proceeding. Nine copies are attached so that each Commissioner may receive a personal copy.

Please contact the undersigned counsel if you have any questions regarding this submission.

Sincerely yours,



Thomas B. Magee
Attorney for
National Hispanic Foundation
for the Arts

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ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

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MAR 1 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
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Review of the Commission's)
Broadcast and Cable)
Equal Employment Opportunity)
Rules and Policies)
and)
Termination of the)
EEO Streamlining Proceeding)
)

MM Docket No. 98-204 /

MM Docket No. 96-16

COMMENTS OF THE
NATIONAL HISPANIC FOUNDATION FOR THE ARTS

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March 1, 1999

SUMMARY

The National Hispanic Foundation for the Arts ("NHFA") supports the Commission's proposed Equal Employment Opportunity rules as an effective means of addressing the deplorable lack of quality programming for Latinos. Outreach efforts and nondiscrimination policies will allow Latinos, other minorities, and women to gain the experience and skills necessary to create programming of interest to these groups and to manage radio, television and cable companies of their own.

The proposed rules survive intermediate level equal employment scrutiny because the government interest in programming diversity is "important" and the proposed rules are "substantially related" to that interest. NHFA has attached the testimony of Ms. Nely Galán, President of Entertainment at Telemundo, which shows a strong nexus between hiring Latinos and women and the creation of programming devoted to Latinos and women. Ms. Galán's testimony also shows how hiring Latinos and women promotes ownership opportunities for these groups. Her testimony shows that these connections exist even if Latinos and women are hired at the lowest level of employment. Ms. Galán's promotion of Latino programming appears typical of Latinos who have risen to positions of upper-level management and ownership in the industry.

Considerable evidence shows that hiring minorities in entry-level positions has a substantial effect on the type and quality of minority programming, and the final

rules should include outreach efforts for all cable and broadcast positions, not just higher-level positions.

NHFA agrees with the Commission that current EEO programs can and should be retained, because these programs have been effective and will continue to be effective. NHFA respectfully offers the following suggestions with respect to new EEO proposals: (1) broadcasters, cable operators and other MVPDs should continue to be required to file annual statistical profile reports (FCC Form 395), but these forms should be modified to require minority and female ownership information; (2) the Commission should be notified of EEOC complaints against any broadcast station, and evaluate those complaints at renewal time; (3) the outreach rule should require a certain number of national and/or local minority sources to be contacted, with a certain percentage of these sources Latino sources; (4) since the problem of minority representation is shared by all Americans, not just minorities, the number of sources to be contacted should not decrease if the number of minorities in the local area is small; (5) the Commission should redouble its enforcement efforts in light of Lutheran Church's scaling back of the EEO rules, by performing more frequent audits and increasing the penalties for noncompliance to include loss of license; (6) recruitment sources should be changed if they do not produce an adequate number of minority applicants; and (7) credit should be given for sponsoring paid internships.

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**Before the
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EEO Streamlining Proceeding)	
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**COMMENTS OF THE
NATIONAL HISPANIC FOUNDATION FOR THE ARTS**

The National Hispanic Foundation for the Arts ("NHFA") files these Comments in the above-captioned proceeding to support the Commission's proposed Equal Employment Opportunity rules.

I. INTRODUCTION

NHFA is a non-profit organization co-founded in 1997 by actors Jimmy Smits, Sonia Braga, Esai Morales, and Washington attorney Felix Sanchez. Its mission is to improve the image of Latinos in this country by developing a better perception of Latinos in the entertainment industry. This

mission includes changing the way Latinos are perceived on television and radio by promoting programming that features Latinos in positive roles.

There is currently a deplorable lack of quality programming for Latinos, leaving the very large and growing Latino segment of our nation without a voice. When positive images of Latinos are absent in the national consciousness, the presence of Latinos becomes minimized and undervalued by the rest of the nation. Without positive, meaningful Latino images in the media, a void is created which is filled all too often with coarse, disparaging images like the Taco Bell Chihuahua, or inaccurate stereotypes like Latino drug dealers and maids. The under-representation of Latinos in the broadcast and cable industries has made it very difficult for hard-working Latinos to see themselves reflected in a positive way or feel as if they are part of the American fabric. For Latinos to become fully integrated into American society, it is important to reinforce, especially for the younger generation, the notion that they have not only the inherent right to the "American dream," but also the talent and opportunity to realize it.

NHFA was created out of the belief that increasing the quality and quantity of Latino representation in the media is the most powerful and effective means to change the current mindset. As Marshal McLuhan wrote in his landmark 1967 work, The Medium is the Message: "All media work us over completely. They are so pervasive in their personal, political, economic,

aesthetic, psychological, moral, ethical, and social consequences that they leave no part of us untouched, unaffected, altered. The medium is the message.”¹

In simple terms, the media should be encouraged to show that Latinos, like all Americans, can be on-screen news broadcasters, doctors and lawyers, and not just drug dealers or maids. Creating opportunities and changing odds is a difficult and lengthy process, but creating a more realistic and positive image – through television, radio, film and news -- is the first step to self-motivation and empowerment.

To help accomplish this goal of creating a more realistic and positive image of Latinos, NHFA believes strongly in the Commission’s proposal to create equal employment opportunities for Latinos and other minorities and women in the broadcast and cable industries. As demonstrated below, the Commission’s proposed outreach efforts and nondiscrimination policies will help Latinos and other minorities and women participate in the broadcast and cable industries to the extent necessary to have a much-needed impact on programming. Promoting minority participation in these industries will allow Latinos to gain the experience and skills necessary to create Latino programming and to manage radio, television and cable companies of their own.²

¹ Marshall McLuhan, The Medium is the Message 26 (Hardwired San Francisco 1996) (1967).

² For a minority group that currently represents 11.2% of the population and is the fastest growing minority group in the country, the number of Latinos who own television, radio and cable companies is very small. According to the Department of Commerce, Hispanics own only 1.8% of the 4,724 AM radio stations in this country, 0.8% of the 5,591 commercial FM stations, and 0.5% of the 1,209 commercial television stations. U.S. Department of Commerce, National Telecommunications and Information Administration, “Minority Commercial Broadcast Ownership

II. THE COMMISSION'S PROPOSED EEO RULES EMPOWER MINORITIES AND WOMEN TO INCREASE PROGRAMMING DIVERSITY

Both the Commission and Congress have repeatedly found that there is considerable value in promoting diverse programming that reflects minority viewpoints on television and radio. In the Metro Broadcasting case, the Supreme Court determined that the government's interest in promoting diverse programming is an "important" one, and that the Commission's now-abandoned minority "distress sale" policy and comparative hearings policy were "substantially related" to the government's interest in promoting broadcast diversity.³ Because the government's interest in diverse programming was "important," and because the distress sale and comparative hearing policies were "substantially related" to that interest, the Court found these programs to survive "intermediate level" equal employment scrutiny.

In the Lutheran Church decision,⁴ the D.C. Circuit evaluated the Commission's EEO rules using strict scrutiny, not intermediate scrutiny. The court applied strict scrutiny because in the court's view, the Commission's existing EEO rules required stations to compare their employment profile with the

in the United States" (1998). Not only are existing figures distressing, the future also looks bleak. The Commerce Department report on minority broadcast ownership concludes that "[m]inority broadcasters are finding it increasingly difficult to compete in the rapidly consolidating broadcast industry." Id. Little information is currently available on Hispanic or other minority ownership of cable companies, but minority ownership in the cable industry appears to be at least as low. In a 1994 speech to the National Urban League, then-Chairman Reed Hundt reported that of 7,500 cable operators, only nine were minority-controlled. Reed Hundt, address before the National Urban League (July 26, 1994). That figure represents just over one-tenth of one percent.

³ Metro Broadcasting v. FCC, 497 U.S. 547, 567-69 (1990).

⁴ Lutheran Church – Missouri Synod v. FCC, 141 F.3d 344 (D.C.Cir. 1998), reh'g denied Sept. 15, 1998.

racial breakdown of the area in which they operated, and the Commission's use of those statistics at renewal time pressured stations to give a preference to minorities.⁵ The Commission's current EEO proposal, however, has removed this improper comparison. The Commission's proposed EEO rules do not call for unequal treatment of job applicants based on race and do not encourage or require employers in any way to give job or hiring preferences to minorities. Instead, the proposal merely requires broadcasters to expand the pool of qualified applicants to include more women and minorities. In the absence of hiring preferences or any other unequal treatment based on race, Metro Broadcasting's intermediate level of equal employment scrutiny should apply. With intermediate level scrutiny, the Commission's EEO proposal should be adopted if the proposal is shown to be "substantially related" to an "important" government interest.

As previously noted, the Supreme Court in Metro Broadcasting has already concluded that the Commission's interest in diverse programming is "important." Therefore, the only remaining part of the two-prong intermediate scrutiny test is a showing that the Commission's proposed EEO rules are "substantially related" to this important interest in diverse programming. NHFA will offer evidence below that the Commission's proposed EEO rules are "substantially related" to that interest.

⁵ Id. at 354.

To demonstrate that the proposed EEO rules are “substantially related” to the government’s interest in diverse programming, the Commission has asked parties to submit evidence demonstrating: (1) that a nexus exists between employment opportunities for minorities and women and opportunities for ownership; and (2) that a nexus exists between minority and female employment and the creation of diverse programming.⁶ The Commission has also requested evidence showing how employees in various positions exert influence on programming decisions.⁷

As evidence of these connections, NHFA has attached the testimony of Ms. Nely Galán, President of Entertainment at Telemundo Network Group, LLC, the nation’s second largest Spanish-language television network. Ms. Galán’s testimony shows that a strong nexus exists between hiring Latinos and women and the creation of programming devoted to Latinos and women. Ms. Galán’s testimony also shows a strong nexus between hiring Latinos and women and promoting ownership opportunities for these groups. Her testimony shows that these connections exist even if Latinos and women are hired at the lowest level of employment.

Ms. Galán explains that her early experiences in the broadcast industry, which were made possible only through equal employment opportunities, taught her valuable skills and provided her with the experience required to succeed in the broadcast industry. She was born in Cuba and

⁶ Notice of Proposed Rulemaking (“NPRM”) at ¶45.

⁷ Id.

emigrated with her family to New Jersey at the age of two. At an early age, she hosted a teen-oriented news program on PBS called "Checking It Out." this program was made possible only because the producer of the show received one of the Emergency School Aid Grants, which were awarded to minorities offering to produce programming for PBS. This initial broadcast job provided valuable experience on how to report and produce television programming. She went on from there to work as a producer of documentaries at the CBS affiliate in Boston, WNEV. These early experiences in Boston and with "Checking It Out" taught Ms. Galán many of the skills necessary to be successful in the broadcast industry, including how to dress for success, how to communicate and sell her ideas, and how to become part of corporate culture. Because of her early training on the ground floor of the broadcast industry, she learned how to play by what she calls the "rules of the broadcast game." Knowing these "rules," she was able to meet Norman Lear, who soon after hired her to manage WNJU, New Jersey's top Spanish-language television station. At WNJU, she learned additional skills such as how to hire employees, develop programming, negotiate production deals, and conduct business in Latin America. She continues to use all of these skills today.

With the skills she learned and experience she gained working in these early broadcast jobs, Ms. Galán grew confident enough in her abilities to start her own company, called Tropix. Time Warner/HBO later became partners with her in that company. When she was thirty years old, Ms. Galán founded a

company she owned by herself: GaLan Entertainment, a Los Angeles-based media company that develops films and TV shows for American networks; and its subsidiary, The Lab, an advertising agency specializing in marketing U.S. programming to Latin American audiences in Spanish, English, and Portuguese.

Ms. Galán is herself an excellent example of how equal employment opportunities provided to a minority and a woman can endow that individual with the skills and experience necessary to own her own business in the broadcast and cable industries. This experience is precisely what Congress envisioned that the EEO rules should do. The House Report to the 1992 Cable Act states:

[T]he Committee recognizes that a strong EEO policy is necessary to assure sufficient numbers of minorities and women gain professional and management level experience within the television industry, and thus that significant numbers of minorities and women obtain the background and training to take advantage of existing and future television broadcasting ownership opportunities.⁸

Not only does Ms. Galán's experience show that hiring minorities in the broadcast and cable industries provides ownership opportunities for minorities, it also shows that providing employment opportunities to minorities will increase the amount of programming designed to appeal to minorities. The companies that Ms. Galán has already established have developed extensive amounts of programming designed to appeal to Latino audiences. As her testimony explains, she signed a production deal with Fox Television to create

⁸ H.R. Rep. No. 102-628, at 114 (1992).

Latino-themed programming for Fox's film, television and international cable divisions. She developed and sold a feature film on Puerto Rican baseball great Roberto Clemente to Walt Disney pictures, and developed and produced the Bravo Awards, the first-ever Latino awards program, which aired nationally on the Fox network. Her companies have developed programming featuring Latinas in particular. For example, she developed two sitcoms, one of which features a 13-year-old Latina going through adolescence and growing up in the United States, and the other chronicles the adventures and challenges of a professional Latina in the American workplace. This sort of programming is precisely the sort of programming that Latinos in this country yearn for in order to feel proud of their heritage and better understand their roles in the American experience.

Ms. Galán's mission to increase the amount of quality Latino programming is continuing in her current role. As President of Entertainment of Telemundo, she is the first Latina to run a television network in the United States or Latin America. As the woman in charge of all programming and production decisions for the network, she recently announced a groundbreaking partnership between Telemundo and Nickelodeon, under which Telemundo will broadcast some of Nickelodeon's top kids' programming in the Spanish language. This Nickelodeon programming will help fill the void currently existing for Spanish-language children's programming, and enable predominantly Spanish-speaking parents to watch television with their bilingual children. In addition, Telemundo has entered into a partnership with the Discovery Network, to bring their

educational and thought-provoking specials to a Spanish-language audience for the first time. Finally, supporting the production activities of another Latina, Telemundo has entered into an agreement with Salma Hayek to air future programming to be produced by the actress.

Ms. Galán's promotion of Latino programming appears typical of Latinos who have risen to positions of upper-level management and ownership in the industry. Mr. Raul Alarcon, Jr. is the President and Chief Executive Officer of Spanish Broadcasting System, Inc., a Latino family-owned company operating eight radio stations in New York, California and Florida. In testimony presented in 1995 before the Ways and Means Committee of the U.S. House of Representatives, he explained the importance of minority ownership of radio stations as follows:

What difference does Hispanic ownership make? As broadcasters, we believe it makes a big difference. I have heard people say that Hispanic ownership is of no real consequence -- that any smart broadcaster will program to the Hispanic market. If this is true, why was there no Spanish-language FM station in New York before we started WSKQ-FM five years ago? Similarly, why did it take Asians to establish the first Asian language stations? Why are some of the highest-rated urban formatted stations owned by Black broadcasters? The fact is -- we care about the communities we serve. . . . During the Gulf War, during Hurricane Andrew, during the California earthquake and the civil disturbances in Los Angeles, we provided news and information news of special interest to the Hispanic communities -- in New York, Florida and California. . . . No mainstream broadcasters speak to this community in the way that

we do, nor -- in our view -- are they capable of doing so.⁹

A Congressional Research Service report released in 1998 found a "strong indication" that ownership of radio and television stations by minorities and women results in a greater degree of minority programming.¹⁰ The Report stated that minority stations go to great lengths to provide programming specifically for minorities and that women owners tend to program to female audiences to a greater extent than male-owned outlets. The report concluded: "The general pattern appears to be that when stations have a high minority ownership interest, programming for that ownership interest is generally primary."¹¹ The report found that 90% of programming on stations held primarily by blacks was targeted to black audiences, and that whenever a station has even marginal ownership by minorities, there was marked increase in the amount of programming provided to minorities.¹²

Congress also has determined that a nexus exists between minority participation in the media industry and diverse programming. Section 22 of the 1992 Cable Act states: "[I]ncreased numbers of females and minorities in positions of management authority in the cable and broadcast television

⁹ Prepared Statement of Raul Alarcon, Jr., President and Chief Executive Officer, Spanish Broadcasting System, Inc., Before the Committee on Ways and Means, Subcommittee on Oversight, United States House of Representatives, January 27, 1995, reprinted in 1995 Federal Information Systems Corporation, Federal News Service.

¹⁰ Congressional Research Service, "Minority Broadcast Station Ownership and Broadcast Programming: Is There a Nexus?" (1988), quoted in Communications Daily, Vol. 8, No. 143, p.1 (July 26, 1988).

¹¹ Id.

¹² Id.

industries advances the Nation's policy favoring diversity in the expression of views in the electronic media."¹³ Additionally, the House Report accompanying the 1992 Cable Act states:

Since the adoption of the Cable Act, the U.S. Supreme Court has recognized the nexus that exists between minority participation in the media industry and the First Amendment principle of diversity in the expression of views and viewpoints. *Metro Broadcasting, Inc. v. FCC*, 100 S.Ct. 2997, 1990. The *Metro Broadcasting* decision supports and underscores the Committee's belief that there is a need for employment of increased numbers of women and minorities in upper-management positions in the cable industry and other media industries to enhance the diversity of viewing choices available to the American public.¹⁴

The Commission has asked whether the recruitment efforts contained in the new EEO requirements should be limited to just upper-level positions only.¹⁵ NHFA believes that considerable evidence exists showing that hiring minorities in entry-level positions has a substantial effect on the type and quality of minority programming, and NHFA encourages the Commission to draft final rules with outreach efforts required to fill vacancies for all cable and broadcast positions, even low-level ones. As shown by her testimony, Ms. Galán would be in no position to impact programming and start her own businesses had she not obtained the initial skills and experience which came from her entry-level work in the broadcast industry. Additionally, employment of Latinos in

¹³ 1992 Cable Act, Section 22(a)(2).

¹⁴ H.R. Rep. No. 102-628, at 111 (1992).

¹⁵ NPRM at ¶69.

entry-level positions will provide network and cable executives with much-needed exposure to Latino culture, which will translate into more and better Latino programming. Ms. Galán's eighteen years in the broadcast and programming industries has taught her that the Latino experience remains a mystery to most network and cable executives, and an unfortunate result is that network executives often are wary of approving a Latino-themed series or movie, for fear that they may be politically incorrect and offend someone. Their preference is simply not to approve such programming at all. Ms. Galán explains that as more Latinos enter the broadcast and cable workplaces, even at entry-level positions, these executives will begin to know more Latinos, will become more familiar with Latino thinking, and will thereafter become less wary of Latino programming. Naturally, as entry-level Latinos assume positions of more responsibility, this interaction will increase. The additional Hispanic programming resulting from this increased interaction is yet another example of how increased equal employment opportunities in the industry will promote more diverse programming.

The need to hire Latinos in low-level customer service positions in the cable industry was recently discussed at a CTAM-sponsored Hispanic marketing workshop at the December 1998 Western Cable Show. The workshop was reported on in Multichannel News. The Multichannel News article explains how panelists at the workshop insisted that cable operators must hire

more Latinos in order to properly market the cable system to the Latino community:

[I]t will take more than devoting bandwidth to Spanish-language programming for operators to sign up Hispanic subscribers, panelists predicted. Perhaps the most obvious -- but often overlooked - piece of advice is to make sure that there's somebody available at the customer-service level who can speak the language.

"When you call 1-800-CableMe in Spanish, you get hung up on," [Liberty vice president David] Jensen said. "If you call to buy cable and get a disconnect from the cable company, that's bad."

Liz Castells-Heard, president of Los Angeles-based advertising agency Ad Americas, encouraged operators and programmers to find marketing partners that understand the Hispanic culture and can write in a generic Spanish dialect, rather than in one that is specific to a single Latin American country.

...
Paula Andrews Dowd, director of marketing communications for MediaOne in that region [Southern California], advised operators to conduct consumer research in Spanish. When it comes to marketing to Hispanics, Andrews Dowd said, it's important to not merely translate copy from English, but to "transcreate" and to test materials in Spanish.

...
"If you want to target this group," Castells-Heard said, "talk to them in Spanish. It's the language of choice, and it's the language of comfort."¹⁶

Equal employment opportunities are therefore required at all levels of employment in the broadcast and cable industries, not just upper-level positions.

¹⁶ Hogan, Monica, "Liberty Will Strengthen Canales ñ," Multichannel News, No. 49, Vol. 19, p. 14 (Dec. 7, 1998).

III. NHFA COMMENTS ON SPECIFIC EEO PROPOSALS

The Commission has asked whether broadcasters, cable operators and other multichannel video programming distributors (“MVPDs”) should continue to be required to file annual statistical profile reports (FCC Form 395).¹⁷ NHFA agrees that the information provided by these reports is of great use to the Commission and the industry as a means of tracking industry trends, and agrees that such reporting is not prohibited by the Lutheran Church decision. NHFA, however, requests that these forms be modified to require broadcasters, cable operators and MVPDs to inform the Commission of the extent of minority and female ownership of these entities. As this proceeding shows, ownership of these entities is a key determinant of the amount and quality of minority programming made available, and accurate statistics on minority and female ownership are important to tracing the success of the Commission’s EEO rules.

In paragraphs 54-58 of the NPRM, the Commission proposes to retain: (1) the general EEO policy/program requirements, which ensure that management fully participates in EEO programs; (2) the specific EEO program requirements, requiring entities to, inter alia, disseminate information, review seniority, pay, and promotion practices, and avoid discrimination; (3) the prohibition against discrimination; and (4) the review of broadcast stations’ EEO programs at renewal time, midterm and through random audits. These

¹⁷ NPRM at ¶49.

requirements have been effective, and will continue to be effective, and NHFA therefore supports their retention.

The Commission has asked whether its current practice with respect to individual complaints of employment discrimination should be changed.¹⁸ NHFA believes that a broadcaster cannot show the necessary character to operate a broadcast facility if it has repeatedly discriminated against employees or prospective employees on the basis of race. Therefore, the Commission should be notified of all discrimination complaints filed at the EEOC against any broadcast station, and should evaluate those complaints when deciding whether to renew the station's license.

NHFA agrees with the Commission that reliance on word-of-mouth job referrals alone is insufficient to prevent discrimination in the hiring of minorities.¹⁹ The broadcast and cable industries are cliquish industries, where knowing the right people is important to succeed and to receive job offers. While such referrals are important for those inside the industry already, they act as a barrier to entry for those not yet participating, like minorities and women. NHFA therefore agrees with the Commission that outreach efforts are required of broadcast and cable entities. The outreach rule should require that a certain number of national and/or local sources of qualified minority applicants be contacted for each job opening. A certain percentage of these sources should be sources that Latinos use, and the percentage of Latino sources required

¹⁸ *Id.* at ¶¶60.

¹⁹ *Id.* at ¶¶62.

should be roughly based on the percentage of total minorities that Latinos represent. Requiring that a specific number of recruiting sources be contacted, and that a certain percentage of those be Latino sources, will make the requirements clear to all parties and will make the requirements easy to enforce.

Since the problem of Latino and other minority representation in the media is a national problem, NHFA believes that the number of recruitment sources required to be contacted should not decrease if the number of Hispanics or other minorities in the community served by the station or cable operator is small. Increasing exposure to the viewpoints of minorities and women is important for all Americans, not just minorities and women. The Supreme Court reached this conclusion in Metro Broadcasting: "The benefits of such diversity are not limited to the members of minority groups who gain access to the broadcasting industry by virtue of the ownership policies; rather, the benefits redound to all members of the viewing and listening audience."²⁰ Because diversity in broadcast and cable programming is important for all Americans, minority and female recruitment efforts should be made no matter how many members of these groups reside in the area served by the station or cable system. This proposal to tailor the number of recruitment sources to the size of the local labor force also might unnecessarily remind a reviewing court of the problematic use of local labor force statistics which the D.C. Circuit found objectionable in Lutheran Church.

²⁰ Metro Broadcasting, 497 U.S. at 568.

The Commission has asked what changes, if any, should be made to its enforcement efforts regarding recruitment of minorities and women.²¹

NHFA believes that the detrimental effect of having to scale back the EEO rules in response to Lutheran Church might be greatly alleviated with increased enforcement efforts. The Commission should not tolerate licensees who discriminate against minority or female applicants, or who cannot comply with simple EEO outreach requirements. Such violators are not operating in the public interest and do not have the character necessary to hold a license or operate a cable system. With increased enforcement, these entities can be weeded out and their licenses can be transferred to other applicants who are more interested in serving the public interest. NHFA therefore urges the Commission to redouble its enforcement efforts in light of the revised EEO rules, to perform more frequent audits, and to increase its penalties for noncompliance to include the loss of licenses for repeat violators. Rigorous enforcement of this sort is necessary to ensure active participation of minorities and women in these industries, and is consistent with the desires of Congress, which declared in Section 22 of the 1992 Cable Act that "rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination."²²

The Commission's proposal to request information on the total number of applicants received from each listed source, and the total number of

²¹ *Id.* at ¶75.

²² 1992 Cable Act, Section 22(a)(3).

minority and female applicants received,²³ is an excellent idea. In this way, the Commission can evaluate which recruitment sources work, and which do not. After a review of these sources, broadcasters and cable operators should be required to change their recruitment source if that source does not produce an adequate number of minority applicants.

Since its inception just two years ago, NHFA has been instrumental in providing paid internships to many Latinos interested in pursuing a career in the broadcast and cable industries. NHFA believes that such internships are the only means by which many Latinos can become participants in these industries. Therefore, NHFA believes that credit should be given to a broadcaster or cable operator who sponsors such paid internships. One example of a credit for these efforts might be to require the entity providing the paid internship to advertise in one fewer minority recruitment source.

IV. CONCLUSION

In her testimony, Ms. Galán observes that without the benefits of equal employment opportunities, she would never have been able to be the president of a network, or a woman with her own successful business. As she sees it, the chief problem facing the Latino community is a lack of self-esteem. Latinos, especially little girls, do not have positive role models in the media. There is no one on television who looks like them, so they do not consider

²³ NPRM at ¶77.


themselves valuable or attractive, nor do they see the possibility of truly succeeding. This effect is subliminal, but nevertheless huge on their self-esteem. The Commission's proposed EEO rules, as demonstrated above, will provide a means by which Latinos and other minorities, and women, can obtain the experience and skills necessary to own companies in the broadcast and cable industries and have a real impact on the quality of programming available from these outlets.

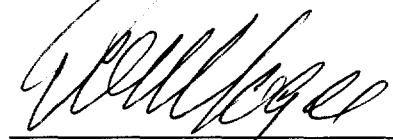
Wherefore, for the reasons stated above, NHFA urges the Commission to adopt its proposed EEO rules.

Respectfully submitted,

**NATIONAL HISPANIC FOUNDATION
FOR THE ARTS**

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**National Hispanic Foundation
for the Arts**

March 1, 1999

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TESTIMONY OF NELY GALAN

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)	
)	
Review of the Commission's)	MM Docket No. 98-204
Broadcast and Cable)	
Equal Employment Opportunity)	
Rules and Policies)	
and)	
Termination of the)	MM Docket No. 96-16
EEO Streamlining Proceeding)	
)	

TESTIMONY OF NELY GALAN

My name is Nely Galán. I am President of Entertainment at Telemundo Network Group, LLC, the nation's second largest Spanish-language television network. I support the FCC's proceeding to reinstate equal employment opportunity requirements for broadcasters and cable operators for two very important reasons. First, granting equal employment opportunities will allow Latinos and other minorities, and women, to better influence the programming Americans receive, and second, granting equal employment opportunities will allow individuals in these groups to gain the experience and skills necessary to own television stations and other companies that supply programming.

My personal experience provides an excellent example of how the business experience and skills gained from early work in the broadcast industry can enable a Latina to own production companies and to otherwise influence programming decisions at the highest corporate level.

I was born in Cuba and emigrated with my family to New Jersey at the age of two. I began my broadcast career at an early age as the host of "Checking It Out," a PBS teen-oriented news show. Production of "Checking It Out" was made possible only because the producer of the show received one of the Emergency School Aid Grants, which were awarded to minorities offering to produce programming for PBS. This initial broadcast job provided valuable experience at an early age on how to report and produce television programming. I went on to work as a producer of documentaries at the CBS affiliate in Boston, WNEV. My early experiences in Boston and with "Checking It Out" taught me many of the skills necessary to be successful in the broadcast industry, including how to dress for success, how to communicate and sell my ideas, how to become part of corporate culture, and how to otherwise play by the "rules" of the broadcast game. Growing up as a woman in a traditional Latino household, this was training my parents were not equipped to provide. Knowing the rules of the broadcast game enabled me to meet Norman Lear, who soon after hired me to manage WNJU, New Jersey's top Spanish-language television station. At WNJU, I learned additional skills such as how to hire employees, develop programming,

negotiate production deals, and conduct business in Latin America. All of these skills I continue to use today.

My early career in the broadcast industry gave me the skills and experience necessary later in my career to help change the way Latinos see themselves on television and the way others see us. After three years managing WNJU, I started my own company as an independent producer, called Tropix. Time Warner/HBO later became partners with me in the company. At the age of thirty, I founded my own company: GaLan Entertainment, a Los Angeles-based media company that develops films and TV shows for American networks; and its subsidiary, The Lab, an advertising agency specializing in marketing U.S. programming to Latin American audiences in Spanish, English, and Portuguese. At that time, I signed a production deal with Fox Television to create Latino-themed programming for Fox's film, television and international cable divisions. Since establishing these companies, I have developed extensive amounts of programming aimed at Hispanic audiences. For example, I developed two sitcoms, one of which features a 13-year-old Latina going through adolescence and growing up in the United States, and the other chronicles the adventures and challenges of a professional Latina in the American workplace. I also developed and sold a feature film on Puerto Rican baseball great Roberto Clemente to Walt Disney pictures, and developed and produced the Bravo Awards, the first-ever Latino awards program, that aired nationally on the Fox network.

Currently, as President of Entertainment of Telemundo, I am the first Latina to run a television network in the United States or Latin America. I am in charge of all programming and production decisions for the network, and in my current capacity, I am continuing my mission to increase the amount of quality programming available to Hispanic viewers. For example, I recently announced a groundbreaking partnership between Telemundo and Nickelodeon, under which Telemundo will broadcast some of Nickelodeon's top kids' programming in the Spanish language. This Nickelodeon programming will help fill the void currently existing for Spanish-language children's programming, and enable predominantly Spanish-speaking parents to watch television with their bilingual children. In addition, we have entered into a partnership with the Discovery Network, to bring their educational and thought-provoking specials to a Spanish-language audience for the first time. Finally, supporting the production activities of another Latina, Telemundo has entered into an agreement with Salma Hayek to air future programming to be produced by the actress.

My eighteen years in the broadcast and programming industries taught me that the Latino experience remains a mystery to most network and cable executives. One unfortunate result is that network executives often are wary of approving a Latino-themed series or movie, for fear that they may be politically incorrect and offend someone. Their preference is simply not to approve such programming at all. As more Latinos enter the broadcast and cable workplaces, however, even at entry-level positions, these executives will begin to know more Latinos, will become more familiar

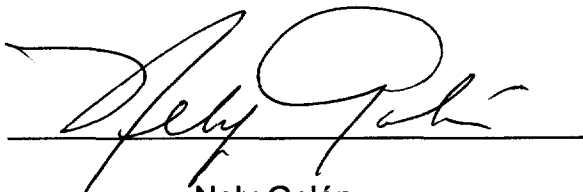
with Latino thinking, and will thereafter become less wary of Latino programming. Naturally, as entry-level Latinos assume positions of more responsibility, this interaction will increase. The additional Hispanic programming resulting from this increased interaction provides yet another example of how increased equal employment opportunities in the industry will promote more diverse programming.

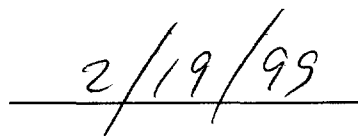
As a young Latina woman, I know that without the benefits of equal employment opportunities, I would never be able to be the president of a network, or a woman with her own successful business. Having enjoyed these opportunities, I can and will create many job opportunities for Latinos in this country. Through the media, I can help change the way we are seen and how we see ourselves. There is no place in Latin America where a woman like me would be in the position I am in. That is why my parents came here, to create a true possibility and a true dream for me.

As I view it, the chief problem facing the Latino community is a lack of self-esteem. Latinos, especially little girls, do not have positive role models in the media. There is no one on television who looks like them, so they do not consider themselves valuable or attractive, nor do they see the possibility of truly succeeding. This effect is subliminal, but nevertheless huge on their self-esteem. For this reason,

and for all of the reasons stated above, I encourage the FCC to restore its equal employment opportunity rules.

I declare under penalty of perjury that the foregoing is true and correct.


Nely Galán


Date